Chapter I

THE BOARD'S GENESIS

In 1969 Supreme Court Justice William O. Douglas accused the Army Corps of Engineers of lacking any conservation or ecological standards. "It operates as an engineer—digging, filling, damming the waterways. And when it finishes, America the Beautiful is doomed."[1] Many Americans agreed. They looked on the Engineers as irresponsible and irrepressible builders. Yet even as numerous critics castigated the Corps, it was undergoing a profound reexamination of its policies and organization in order to respond better to growing environmental concerns. Its record for the 1970s was not one of an entrenched bureaucracy stubbornly resisting change, but rather the opposite. Working with Congress, agencies of the Executive Branch, and the environmental community, it developed new procedures to insure that environmental issues were properly addressed. Consequently the Corps became the first federal water resources agency to institutionalize environmental views.

The creation of the Environmental Advisory Board, at a time when the Corps was under fire from a wide range of critics, reflected the Corps' determination to listen and respond constructively to its opponents. It was a gamble; many doubted that any good faith could be established. Indeed, at times in the years ahead the relationship did seem to flounder, but the Board showed more endurance than expected. Its history is not simply one of the development of a Board, but the education of a bureaucracy.

The Environmental Advisory Board was created on 2 April 1970, when Lieutenant General Frederick J. Clarke, Chief of Engineers, invited six distinguished members of the environmental establishment to become its charter members. They would "provide not only advice on specific policies, programs and problems, but perhaps more important, contribute to an enhanced mutual understanding and confidence between the Corps and both the general public and the conservation community."[2] Furthermore, they could give to the Corps "not only a broad range of knowledge, expertise and experience, but also a philosophy and perspective that has not yet been fully developed within the Corps."[3] Letters were sent to Roland Clement, Ecologist/Vice President, National Audubon Society; Lynton K. Caldwell, Professor of Political Science, University of Indiana; Charles H. W. Foster, Executive Director, New England Natural Resources Center; Harold Gilliam, Environmental Reporter, San Francisco *Chronicle*; Richard H. Pough, Chairman of the Board, Open Space Action Institute and America the Beautiful Fund; and Charles H. Stoddard, Environmental Consultant and former Director of the Bureau of Land Management.

The establishment of the Environmental Advisory Board, or EAB as it came to be called, was a calculated risk in which both the EAB members and the Corps had a stake. While all those invited to be members accepted, most shared the concern of Elvis J. Stahr, President of the National Audubon Society. In expressing the Society's willingness to allow Clement to participate in the EAB, Stahr admitted, "I will say frankly that some of our friends have already expressed doubt—even dismay—at this joining of forces, since they feel that it is 'window dressing'." Stahr went on to say that "only effective cooperative results will dispel this credibility gap."[4]

Lieutenant General Frederick J. Clarke, Chief of Engineers, 1969–1973.

In reply General Clarke was no less candid:

> I do not propose to inhibit the Board as to publicly expressing their thoughts. Thus there should be no questions of their position or reputation being compromised by their connections with the Corps. I am sure that you can also see that I am accepting considerable risks in establishing such a Board. I am confident, nevertheless, that through mutual trust and understanding we will be able to insure that the Corps meets both the environmental and developmental needs of the nation for the future.[5]

One of the risks which General Clarke took was to put his own judgment and reputation on the line. As he bluntly said in a 1977 interview, "There were many people in our organization who thought I was completely crazy—sort of inviting the enemy into the camp."[6] There undoubtedly were enemies. One friend told Clement that he had seriously blundered. "The only way to redirect the Corps of Engineers," the friend said, "is to abolish it."[7] Still, the formation of the EAB had been carefully considered; and in retrospect we can see that it was the product of evolution, not an overnight revolution in the Corps' philosophy—or the nation's.

The development which most affected the nation's attitude toward its natural resources was the growth of "environmentalism," a word that begs for definition. One might recall the story of the six blind men and the elephant; each man touched a different part of the elephant's body and consequently arrived at a different conclusion about what the animal was. In the same way, "environmentalism" can have various meanings depending on one's own interest. If one means an appreciation of and sensitivity to the delicate relationship of the world of man to the world of nature, then the concept is nothing new. Ancient Greeks, Renaissance humanists, French Enlightenment thinkers, German Neo-Classicists, and American Transcendentalists all preached the importance of living in a unified world, where the works of man and nature complemented each other. Today of course environmentalism has come to mean more than a perception or style of life. A hint is given by the suffix; twentieth-century "isms" almost invariably are political ideologies. What separates environmentalists today from those of the past are three guiding principles. First, political maturity requires the harmonizing of nature's world with man's needs, with a proper balance between the two. Second, progress is not necessarily good, especially if it leads to the dehumanization of life or the brutalization of society. Third, the government itself currently destroys the proper ecological balance by promising too much to man and expecting too much from nature.

The third principle made environmentalism as much a political movement as a philosophy. Beginning in the early 1960s, particularly with the publication in 1962 of *Silent Spring* by Rachael Carson, an increasing number of people became concerned over the federal government's ability to manage the nation's resources. Since 1908, when President Theodore Roosevelt called the first national conservation conference, both federal and state governments had assumed increasing responsibility for husbanding America's resources.

However, with increasing population, sophisticated technological and scientific breakthroughs, and steady economic expansion, government had found it difficult to steward the country's natural wealth. Moreover, misguided attempts to protect crops through the use of enormous amounts of pesticides actually threatened human health. This danger was forcefully pointed out in Carson's book, a publication which became a landmark in the history of the environmental movement.

Carson initiated the jeremiad, but other prophets of doom followed. George Wald, Paul Ehrlich, Harrison Brown, and, most notably, Barry Commoner stressed the importance of man working with nature and not against it. At the same time, television pictures of beaches covered with viscous globules of black ooze from oil tanker mishaps dramatically suggested the devastation man could cause the environment. Clearly the government had to do something.

The response of federal authorities to new environmental concerns began during the Kennedy administration. In May 1962 President John F. Kennedy approved a document written by his Water Resources Council, which included the Secretaries of Army, Interior, Agriculture, and Health, Education, and Welfare. Officially titled "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," the document was printed as Senate Document 97 and is better known by this title. Of particular importance to the Corps of Engineers, Senate Document 97 provided that nonstructural as well as structural measures be considered in addressing problems related to water resource development. Three years later the Corps undertook additional environmental responsibilities when the 1965 Rivers and Harbors Act authorized the Engineers to cooperate with other federal and nonfederal agencies to control and eradicate nuisance water plants. The following year President Lyndon B. Johnson directed federal agencies to evaluate flood hazards before funding new construction or the purchase or disposal of lands.

Certainly the most important piece of federal environmental legislation passed during this time was the National Environmental Policy Act of 1969 (NEPA), approved on 1 January 1970. The purpose of the act was to

> declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the nation; and to establish a Council on Environmental Quality.[8]

The most controversial and significant part of this act was Section 102(2)(c), which required all federal agencies to file an environmental impact statement (EIS) with each report on proposals for legislation or other actions "significantly affecting the quality of the human environment." Two months later President Richard M. Nixon directed that all federal staff agencies bring their

procedures and regulations into conformance with NEPA.[9] In March and April 1970 the Corps issued three Engineer Circulars to do just that.[10]

In August 1965 Utah Senator Frank E. Moss introduced a bill to create a new Department of Natural Resources, incorporating the Department of the Interior and various other water-related agencies, including the civil works functions of the Corps of Engineers. The bill failed; but its timing, at the dawn of the Corps' concerted effort to address environmental issues, suggests that the Corps changed only in response to outside pressure. Closer examination, however, reveals otherwise. Already in early 1964 Cyrus R. Vance, Secretary of the Army, decided that the Engineers' civil works program should be studied and evaluated; and he established a Civil Works Study Board for that purpose. In January 1965 the board completed its study, which was published by the Senate Public Works Committee in February 1966.[11] While the board emphatically supported the retention of civil works activities by the Corps, it criticized the Corps for failing to formulate and disseminate the objectives and policies of the Army's civil works program. Moreover, the board asserted, "The current policies, procedures, organization and staffing of the Corps of Engineers are not being fully adjusted . . . to deal effectively with a much changed and continuously changing water resources environment."[12]

The Corps quickly responded to this criticism. Between 1966 and 1970 it issued at least twenty new regulations or guidelines requiring increased attention to aesthetic and environmental values in project planning and construction. During this same time, 26 landscape architects joined the Corps work force, so that by 1970, 101 full-time landscape architects were employed by the Engineers. The addition of 71 biologists, foresters, agronomists, sanitary engineers, and other specialists in environmental sciences brought the total to 287 people employed in these vocations by the Corps. Meanwhile, studies were begun to investigate various environmental problems. For instance, one study examined the protection of anadromous fish, which were being threatened by the high dams on some rivers, notably the Columbia and the Snake. Another sought to identify the best plants to grow on levees. A third examined ways to protect fish and wildlife when water was diverted into floodways along the Mississippi River. Still another considered how to prevent further destruction of the American side of Niagara Falls. The Corps also supported such acts as the Wild and Scenic Rivers Act, the Water Resources Planning Act, the Federal Water Pollution Control Act, the Federal Water Projects Recreation Act, and the Shoreline Study Act.[13] In 1969 alone the Corps referred 355 cases of possible violations of water pollution laws to the Department of Justice. This number was more than for all other federal agencies put together.[14] Perhaps the most visible manifestation of the Corps' desire to be responsive to new trends in water management was the establishment in April 1969 of the Institute for Water Resources (IWR). One of the Institute's major responsibilities was to initiate, perform, and monitor "research in all phases of water resources planning to evaluate existing methods, procedures, and criteria, and to develop new and innovative techniques, giving particular

attention to environmental quality, regional development, and interregional and international planning."[15]

The Corps also showed a change of thinking in its regulatory program. In the mid-1960s, the Florida land development firm of Zabel and Russell began to dredge and fill some of their Boca Ciega Bay property for a trailer park. However, Colonel Robert Tabb, the Jacksonville District Engineer, refused to issue a permit for this project, arguing that it would unduly harm fish and wildlife, in violation of the Fish and Wildlife Coordination Act, and that it was opposed by various state and local authorities. The company thereupon sued the Corps. The plaintiffs argued that the only grounds for denial of a permit was interference with navigation. The Court of Appeals for the Fifth Circuit reversed the District Court, which had ordered the permit issued. It held that Congress had the constitutional authority to forbid a project for ecological reasons and that power had been lawfully delegated to the Corps. The Corps not only won the legal fight, but gained some friends among the environmental community as well.[16]

Of course these various activities did not prevent criticism of the Corps. Indeed, by the end of the decade environmentalists were lambasting the Corps for what they considered its insensitivity to environmental matters. Among the Corps' severest critics were Justice Douglas, Elizabeth Drew, and George Laycock.[17] Certainly this criticism demoralized some Corps personnel, but as General Clarke said, "I think by and large, the people in the Corps realized that our job was to do what we always had done: do what the people of the country wanted. And if the people of the country were changing what they wanted, we'd better get in step and find a way to do it. Thank God that was the dominant feeling that I ran into."[18] Clarke went on to suggest that because there was "something of the military" in the civil works side of the Corps, it was able to accommodate the environmental movement with relative ease.[19] The establishment of the EAB clearly signaled to the Corps and to the public that this accommodation would be a permanent part of Corps activities.